

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D .C. 20554**

In the Matter of	)	
	)	
Empowering Consumers to Prevent and Detect	)	CG Docket No. 11-116
Billing for Unauthorized Charges (“Cramming”)	)	
	)	
Consumer Information and Disclosure	)	CG Docket No. 09-158
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

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**REPLY COMMENTS OF ATTORNEY GENERAL MARK L. SHURTLEFF FOR  
STATE OF UTAH**

As Attorneys General for the State of Utah, we support the Federal Communications Commission’s (FCC) goal to prevent telephone bill cramming. We believe strongly that new measures should be implemented to protect consumers and businesses from being crammed, and we support several recommendations in the July 12, 2011, Notice of Proposed Rulemaking (NPRM).

We also feel, however, that it is important to more closely examine data that provide additional perspective on the issue, and heretofore has not been broadly considered. More than 8 million American businesses and households use third-party billing services to have charges billed to their landline phone bills. The number of complaints the FCC has received regarding cramming represent a very small percentage of that figure.

In addition, nearly 2 million American businesses and households use third-party billing for two or more services. Each year, more than 10 million calls are made between the U.S. and other countries using third-party billing services. These numbers demonstrate that consumers utilize third-party billing services on a broad basis.

Further, industry leaders have implemented best practices which have dramatically reduced cramming incidents. A leading billing aggregator reports that processes instituted to prevent cramming have reduced cramming incidents to approximately 0.25 percent.<sup>1</sup> A leading Local Exchange Carrier (LEC) has instituted a cramming complaint threshold of 0.75 percent for each of its clearinghouses, and has recently reported that cramming allegations are down to 0.10 percent.<sup>2</sup>

From these figures, we see evidence that millions of Americans value their ability to have charges for a variety of services placed on their wireline bills, that industry leaders have implemented best practices in the interest of protecting consumers from cramming, and that these best practices have resulted in a dramatic reduction of instances of cramming. We believe other businesses across the industry can learn from these best practices, and for that reason, we fully support the following measures currently under consideration in the NPRM:

- Require wireline carriers to offer subscribers the option to block third-party charges from their telephone bill.

- Require wireline carriers to place charges from third-party vendors that are not carriers in a separate section of the wireline customers' bills.

- Require a due diligence process for the vetting of all merchants before these merchants are permitted to place charges on a wireline telephone bill.

We therefore see strong evidence that third-party billing should be permitted to continue with the adoption of the reforms discussed above. In these economic times, we must be keenly aware of any new regulations that would create unnecessary barriers to business development, innovation and economic growth. Businesses should be given opportunities to reduce their

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<sup>1</sup> Comment, Billing Concepts, Inc. d/b/a BSG, CG Dkt. No 11-116 (Oct. 24, 2011) at Exec. Summary 2.

<sup>2</sup> Comment, AT&T Inc., Dkt. CG Dkt. No. 11-116 (Oct. 24, 2011) at 6, 9.

overhead costs. Small businesses should be given new opportunities to reach and serve a diverse and geographically dispersed customer base. Consumers should be given opportunities to save their hard-earned dollars. These are among the many reasons why third-party billing is so greatly valued, and why it has grown to serve millions of consumers across the nation.

During a Senate Commerce Committee hearing regarding phone cramming on July 13, 2011, Senator Kelly Ayotte, also a former Attorney General for the state of New Hampshire, observed that when someone steals from a convenience store, we do not shut down the store, instead we pursue the thief. We agree with her assessment in regards to third-party billing. Certainly, there are unscrupulous actors who attempt to deceive consumers and businesses, and their actions should not be tolerated. Additional measures must be implemented to ensure that best practices in consumer protection are implemented industry-wide. And we will not hesitate to utilize our enforcement authority to prosecute companies and individuals that engage in fraudulent and deceptive practices.

In conclusion, third-party billing facilitates greater consumer choice, lower prices, and increased competition. Banning third-party billing is a drastic and unnecessary step, which penalizes good actors in an attempt to stop bad actors, and does not truly consider what is in the best interests of consumers or small businesses. More reasonable approaches exist, have been

implemented, and have demonstrated that they achieve very high levels of success. We strongly encourage the FCC to explore these options.

Respectfully submitted on December 5, 2011.

A handwritten signature in black ink, appearing to read "Mark L. Shurtleff", with a large, stylized flourish at the end.

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Mark L. Shurtleff  
Utah Attorney General